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JS-6

Attorneys for the Plaintiff

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 **ELAINE L. CHAO**,
12 Secretary of Labor,
13 United States Department of Labor,
14 Plaintiff,

15 v.

16 **EHH 26, Inc. doing business as Slauson Car**
17 **Wash**, a California Corporation; **Eshagh**
18 **Malekan**, Individually and as Managing Agent
19 of the Corporate Defendant; **Frank Wasiri**, In-
20 dividually and as Managing Agent of the Cor-
21 porate Defendant

22 Defendants.

Case No. CV08-07906 PSG (RZx)

CONSENT JUDGMENT

23
24 Plaintiff Elaine L. Chao, Secretary of Labor, United States Department of Labor
25 (“Secretary”) and defendants EHH 26, Inc. doing business as Slauson Car Wash, a Cali-
26 fornia corporation, Eshagh Malekan and Frank Wasiri, individually and as managing
27 agents of the corporate defendant (collectively, “Defendants”), have agreed to resolve
28 the matters in controversy in this civil action and consent to the entry of this Consent

1 Judgment in accordance herewith:

2 A. The Secretary has filed a Complaint alleging that Defendants violated pro-
3 visions of Sections 15(a)(2), 15(a)(4), and 15(a)(5) of the Fair Labor Standards Act of
4 1938, as amended (“FLSA”), 29 U.S.C. §§ 215(a)(2), 215(a)(4) and 215(a)(5).

5 B. Defendants have appeared and (after having been advised by Plaintiff of the
6 right to retain the assistance of defense counsel) acknowledge receipt of a copy of the
7 Secretary’s Complaint.

8 C. Defendants waive issuance and service of process and waive answer and
9 any defenses to the Secretary’s Complaint.

10 D. The Secretary and Defendants waive Findings of Fact and Conclusions of
11 Law, and agree to the entry of this Consent Judgment in settlement of this action, with-
12 out further contest.

13 E. Defendants admit that the Court has jurisdiction over the parties and subject
14 matter of this civil action and that venue lies in the Central District of California.

15 It is therefore, upon motion of the attorneys for the Secretary, and for cause
16 shown,

17 ORDERED, ADJUDGED, AND DECREED that the Defendants, their officers,
18 agents, servants, and employees and those persons in active concert or participation with
19 them who receive actual notice of this order (by personal service or otherwise) be, and
20 they hereby are, permanently enjoined and restrained from violating the provisions of
21 Sections 15(a)(2), 15(a)(4), and 15(a)(5) of the FLSA, 29 U.S.C. §§215(a)(2), 215(a)(4)
22 and 215(a)(5), in any of the following manners:

23 1. Defendants shall not, contrary to FLSA § 6, 29 U.S.C. § 206, pay any em-
24 ployee who in any workweek is engaged in commerce, within the meaning of the FLSA,
25 or is employed in an enterprise engaged in commerce or in the production of goods for
26 commerce, within the meaning of FLSA § 3(s), wages at a rate less than \$6.55 an hour
27 (or less than the applicable minimum rate as may hereafter be established by amendment
28 to the FLSA).

1 2. Defendants shall not, contrary to FLSA § 7, 29 U.S.C. § 207, employ any em-
2 ployee who in any workweek is engaged in commerce, within the meaning of the FLSA,
3 or is employed in an enterprise engaged in commerce or in the production of goods for
4 commerce, within the meaning of FLSA § 3(s), for any workweek longer than 40 hours
5 unless such employee receives compensation for his or her employment in excess of 40
6 hours in such workweek at a rate not less than one and one-half times the regular rate at
7 which he or she is employed.

8 3. Defendants shall not, contrary to FLSA §§ 12(c) and 15(a)(4), 29 U.S.C. §§
9 212(c) and 215(a)(4), employ any oppressive child labor, as defined in or pursuant to
10 FLSA § 3(l), in commerce, within the meaning of the FLSA, or is employed in an enter-
11 prise engaged in commerce or in the production of goods for commerce, within the
12 meaning of FLSA § 3(s).

13 4. Defendants shall not fail to make, keep, make available to authorized agents of
14 the Secretary for inspection, transcription, and/or copying, upon their demand for such
15 access, and preserve records of employees and of the wages, hours, and other conditions
16 and practices of employment maintained, as prescribed by regulations issued, and from
17 time to time amended, pursuant to FLSA §§ 11(c) and 15(a)(5), 29 U.S.C. §§ 211(c) and
18 215(a)(5) and the implementing regulations found in Title 29, Code of Federal Regula-
19 tions, Part 516.

20 5. Defendants, jointly and severally, shall not continue to withhold the payment
21 of \$64,732.47 in minimum wage and overtime pay hereby found to be due under the
22 FLSA to 38 employees, as a result of their employment by Defendants during the period
23 of May 1, 2006 through February 7, 2008 as set forth in the attached Exhibit 1, showing
24 the name of each employee and listing on the same line the gross backwage amount due
25 the employee and the period covered by the Consent Judgment.

26 6. Defendants shall pay the backwages, plus 3% annual interest on the out-
27 standing balance starting from December 15, 2008 until the backwages required under
28 this Judgment are paid in full, as set forth in paragraph 7 below (and as set forth in the

1 attached Exhibit 2). Each payment shall be made by a certified or cashier's check or
2 money order with the firm name and "BW's + Interest" written on each, payable to the
3 order of the "Wage & Hour Div., Labor," and delivered to the U.S. Department of La-
4 bor, Wage and Hour Division, 915 Wilshire Blvd. Suite 960, Los Angeles, CA, 90017,
5 on or before the date the payment is due.

6 7. Defendants shall deliver to the Wage and Hour Division, United States De-
7 partment of Labor, 915 Wilshire Blvd. Suite 960, Los Angeles, CA, 90017, the follow-
8 ing:

9 a. On or before December 15, 2008, a schedule in duplicate bearing the firm
10 name, employer identification number(s), address, and phone number of the De-
11 fendants and showing the name, last known (home) address, social security num-
12 ber, and gross backwage amount for each person listed in the attached Exhibit 1;

13 b. On or before December 15, 2008, and again on or before the 15th day of
14 each of the 14 months thereafter, a certified or cashier's check or money order
15 with the firm name and "BW's + Interest" written on each, payable to the order of
16 the "Wage & Hour Div., Labor," in the amounts reflected on Exhibit 2;

17 c. In the event of a default in the timely making of any of the payments
18 specified herein, the full amount under the backwage provisions of this Judgment
19 which then remains unpaid, plus interest at the rate of ten percent (10%) per year,
20 from the date of this Judgment until the full amount of this Judgment is paid in
21 full, shall become due and payable upon the Secretary's sending by ordinary mail
22 a written demand to the last business address of the Defendants then known to the
23 Secretary;

24 d. There will be no pre-payment penalty in the event the Defendants pay
25 the full amounts due under the monetary provisions of this Judgment prior to the
26 dates set forth above.

27 8. The Secretary shall allocate and distribute the remittances, or the proceeds
28 thereof, less deductions for employees' share of social security and withholding taxes to

1 the persons named in the attached Exhibit 1, or to their estates if that be necessary, in her
2 sole discretion, and any money not so paid within a period of three years from the date
3 of its receipt, because of an inability to locate the proper persons or be-cause of their re-
4 fusal to accept it, shall be then deposited in the Treasury of the United States, as miscel-
5 laneous receipts, pursuant to 29 U.S.C. § 216(c); and, it is further

6 ORDERED that the filing, pursuit, and/or resolution of this proceeding with the
7 entry of this Judgment shall not act as or be asserted as a bar to any action under FLSA
8 § 16(b), 29 U.S.C. § 216(b), as to any employee not named on the attached Exhibit 1 nor
9 as to any employee named on the attached Exhibit 1 for any period not specified therein;
10 and, it is further

11 ORDERED that each party shall bear its own fees and other expenses incurred by
12 such party in connection with any stage of this proceeding, including but not limited to
13 attorneys' fees, which may be available under the Equal Access to Justice Act, as
14 amended; and, it is further

15 ORDERED that this Court shall retain jurisdiction of this action for purposes of
16 enforcing compliance with the terms of this Consent Judgment.

17
18 Dated: _12/10/08.

PHILIP S. GUTIERREZ
U.S. DISTRICT COURT JUDGE

1 For the Defendants:

2 Each defendant hereby appears, waives any
3 defense herein, consents to the entry of
4 this Judgment, and waives notice by the
5 Clerk of Court:

6 For: EHH 26, Inc. DBA Slauson Car Wash

7 By: _____
8 Authorized Agent

_____ Date

9 Its: _____
10

11 _____
12 ESHAGH MALEKAN

_____ Date

13 _____
14 FRANK WASIRI

_____ Date

15 _____
16 Jack Zakariaie, Esq.
17 ZAKARIAIE & ZAKARIAIE
18 Attorneys for the Defendants

_____ Date

19 For the plaintiff:

20 GREGORY F. JACOB
21 Solicitor of Labor

22 LAWRENCE BREWSTER
23 Regional Solicitor

24 _____
25 DANIEL J. CHASEK
26 Acting Associate Regional Solicitor
27 Attorneys for the Plaintiff
28

_____ Date

Exhibit 1

<u>Name</u>	<u>Period Covered Hereby</u>	<u>Amount</u>
ARJAMOSA, Arleen	07/07/2007 – 01/26/2008	\$ 2,183.62
BRITO, Abraham	08/19/2006 – 01/26/2008	230.08
CAZARES, Pablo	05/19/2006 – 05/19/2007	89.14
ERESTO-TADEO, Alvaro	05/13/2006 – 01/26/2008	2,300.53
ESPARZA, Ivan	10/20/2007 – 01/26/2008	406.01
ESTRADA, Javier	12/09/2006 – 09/15/2007	1,652.69
ESTRADA, Maria D.	05/13/2006 – 01/26/2008	1,126.00
EUAN, Jesus	08/04/2007 – 01/26/2008	2,207.22
FIERRO, Antonio	05/13/2006 – 01/26/2008	4,349.65
FIERRO, Gabriel	02/24/2007 – 06/09/2007	284.46
FLORES, Roberto	05/13/2006 – 12/16/2006	1,088.40
GARCIA, Raymundo	05/13/2006 – 01/26/2008	2,339.02
GARCIA, Jr., Benjamin	09/23/2006 – 08/18/2007	202.72
GARZA, Elvia	09/09/2006 – 09/15/2007	2,305.33
GARZA, Maria	05/13/2006 – 04/21/2007	2,121.45
GUTIERREZ, Antonio	05/13/2006 – 03/31/2007	1,261.67
HERNANDEZ, Alberto	06/02/2007 – 01/26/2008	3,262.13
HERNANDEZ, David	05/13/2006 – 01/26/2008	3,977.48
HERRERA-BARBOSA, Justo	05/13/2006 – 01/26/2008	1,189.32
IBARRA, Juan M.	08/19/2006 – 01/26/2008	1,824.37
LOPEZ, Salvador	11/25/2006 – 08/18/2007	1,196.91
MELLENDEZ, Jacinto	08/19/2006 – 01/26/2008	3,359.00
MONTIEL, Luis	06/02/2007 – 12/29/2007	3,311.17
MOSYVAIS, Jose	07/15/2006 – 01/26/2008	3,023.69
ORTEGA, Victor	05/13/2006 – 11/10/2007	1,760.12

Exhibit 1

<u>Name</u>	<u>Period Covered Hereby</u>	<u>Amount</u>
ORTIZ, Alvaro	06/02/2007 - 06/23/2007	\$ 638.68
PEREZ, Francisco	06/30/2007 – 07/14/2007	119.89
POOT, Jose	05/13/2006 – 01/26/2008	5,685.59
RAMIREZ, Guadalupe	05/19/2006 – 01/26/2008	1,858.62
REYES, Antonio	08/18/2007 – 09/15/2007	38.02
RODRIGUEZ, Adelson	03/31/2007 – 01/26/2008	900.36
SANCHEZ, Refugio	05/13/2006 – 06/30/2007	1,645.50
TORRES, Joel	07/07/2007 – 09/15/2007	115.42
TRAHAN, Bobby	08/04/2007 – 01/26/2008	610.77
Uc PECH, Felipe	05/13/2006 – 08/11/2007	1,447.15
VARGAS, Alejandro	08/19/2006 – 12/29/2007	3,275.76
YAM, Augustin	05/13/2006 – 01/26/2008	1,164.52
ZAFRA, Antonio	06/16/2007 – 08/30/2007	143.01

Exhibit 2

<u>Payment No.</u>	<u>Date Due</u>	<u>Amount Due</u>	<u>Interest Due</u>	<u>Total Due</u>
1	12/15/2008	\$4,315.50	\$19.44	\$4,334.94
2	01/15/2009	\$4,315.50	\$14.09	\$4,329.59
3	02/15/2009	\$4,315.50	\$34.03	\$4,349.53
4	03/15/2009	\$4,315.50	\$53.34	\$4,368.84
5	04/15/2009	\$4,315.50	\$111.20	\$4,426.70
6	05/15/2009	\$4,315.50	\$14.05	\$4,329.55
7	06/15/2009	\$4,315.50	\$57.40	\$4,372.90
8	07/15/2009	\$4,315.50	\$88.57	\$4,404.07
9	08/15/2009	\$4,315.50	\$117.10	\$4,432.60
10	09/15/2009	\$4,315.50	\$84.53	\$4,400.03
11	10/15/2009	\$4,315.50	\$147.38	\$4,462.88
12	11/15/2009	\$4,315.50	\$194.47	\$4,509.97
13	12/15/2009	\$4,315.50	\$115.45	\$4,430.95
14	01/15/2010	\$4,315.50	\$113.31	\$4,428.81
15	02/15/2010	\$4,315.47	\$130.28	\$4,445.75
Totals:		\$64,732.47	\$1,294.64	\$66,027.11